

REMARKS/ARGUMENTS

Claims 1-27 are pending in the application. Claims 1, 5, 10, 14, 19, and 23 have been amended. Reconsideration is respectfully requested. Applicant submits that the pending claims are patentable over the art of record and allowance is respectfully requested of the pending claims.

Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Mitchell et al. (U.S. Patent No. 6,230,181). Applicant respectfully traverses.

Anticipation requires that the identical invention must be shown in a single reference in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Amended claim 1 describes, at the first network entity, in response to the driver shutting down and reloading with new settings, determining whether the driver was reloaded before a link-shutdown timer expired, wherein the link-shutdown timer is associated with the link and is started in response to the driver starting a shutdown sequence, wherein the link-shutdown timer counts a maximum amount of time that the link is to be maintained while the driver is being unloaded (e.g., Specification, paragraph 30); continuing processing without dropping the link in response to the driver being reloaded before the link-shutdown timer expired; and dropping the link in response to the driver not being reloaded before the link-shutdown timer expired.

For example, Applicant's Specification, page 8, paragraph 28, and Figure2 describe:

Having a link come up (i.e., be available) and go down (i.e., be unavailable) may cause side effects to network entities (e.g., switches) that try consistently to determine whether the network topology changed. The link switching from being available to being unavailable or switching from being unavailable to being available may also be referred to as a "link toggle." Embodiments of the invention prevent this link toggle when a driver is to be unloaded and reloaded (e.g., due to reconfiguring of the network adapter 112). By preventing the link from becoming unavailable, embodiments of the invention avoid exposing any difference to external network entities that are attempting to detect any change in the network 200. For example, if a driver at computer 205 is to be

unloaded and reloaded, embodiments of the invention do not drop link E 218 between computer 205 and switch 202 for a certain period of time, to allow the driver to be reloaded, without connectivity problems.

That is, Applicant's claimed invention is *directed to keeping a link up while a driver is being unloaded and reloaded with new settings*.

On the other hand, the Mitchell patent describes a system for shutting down and resetting an embedded system having a general purpose computing platform (Abstract). The Mitchell patent is not directed to keeping up a link between a first network entity and a second network entity.

The Mitchell patent describes a shutdown management driver that generates a management reset signal in response to at least one shutdown condition, and a shutdown and reset manager senses the shutdown condition and *initiates a shutdown of the operating system* in response to the management reset (Abstract). Thus, the Mitchell patent describes a shutdown of the operating system, which does not anticipate, and teaches away from, *the driver shutting down and reloading with new settings*.

As to, in response to the driver shutting down and reloading with new settings, determining whether the driver was reloaded before a link-shutdown timer expired, the Examiner submits that the link-shutdown timer is the watchdog timer (Office Action, page 3, citing Mitchell, Col. 5, line 67 – Col. 1, line 8). Applicants respectfully traverse, but to expedite prosecution, Applicants have amended claim 1 to clarify that the link-shutdown timer counts a maximum amount of time that the link is to be maintained while the driver is being unloaded. The Mitchell patent describes that the management card may include *a watchdog timer* or hardware and software components *for monitoring temperature in the chassis, voltage at the power source or other signal and power signals at other cards* (Col. 6, lines 27-31). Thus, the watchdog timer does not anticipate the claimed link-shutdown timer.

As to continuing processing without dropping the link in response to the driver being reloaded before the link-shutdown timer expired, the Examiner cites Mitchell Col. 6, lines 51-53, and submits that Mitchell teaches where hardware reset is inhibited so that processing continues (Office Action, page 3). Applicants respectfully traverse. Applicants respectfully submit that inhibiting any hardware reset until the operating system has completed shutdown does not

anticipate, at the first network entity, *in response to the driver shutting down and reloading with new settings, . . . continuing processing without dropping the link in response to the driver being reloaded before the link-shutdown timer expired.*

As to dropping the link in response to the driver not being reloaded before the link-shutdown timer expired, the Examiner cites Col. 6, lines 9-21 of the Mitchell patent. The cited portion of the Mitchell patent describes that the assertion of the management reset line is one of several shutdown/reset conditions. Applicants respectfully submit that shutdown/reset conditions do not anticipate, at the first network entity, *in response to the driver shutting down and reloading with new settings, . . . dropping the link in response to the driver not being reloaded before the link-shutdown timer expired.*

Thus, amended claim 1 is not anticipated by the Mitchell patent.

Amended claims 10 and 19 are anticipated by the Mitchell patent for at least the same reasons as were discussed with respect to claim 1.

Amended claim 5 describes, wherein the driver at the first network entity performs: starting a shutdown sequence in the driver (e.g., Specification, paragraph 29); in response to determining that the link does not need to shut down, starting a link-shutdown timer for dropping the link, wherein the link-shutdown timer counts a maximum amount of time that the link is to be maintained while the driver is being unloaded (e.g., Specification, paragraph 30); in response to the driver starting a load sequence and determining that the link-shutdown timer is enabled and has not expired, determining whether the link is available, wherein the link is determined to be available when the driver is reloaded with new settings before the link-shutdown timer has expired; and continuing processing without renegotiating the link in response to the link being available.

The Mitchell patent describes that the shutdown and reset manager inhibits any further hardware reset until the operating system has completed the shutdown process. Shutting down the *operating system* does not anticipate starting a shutdown sequence in the *driver*.

As discussed above, the Mitchell patent does not anticipate, in response to determining that the link does not need to shut down, *starting a link-shutdown timer for dropping the link, wherein the link-shutdown timer counts a maximum amount of time that the link is to be maintained while the driver is being unloaded.*

The Mitchell patent describes, once the shutdown of the operating system is complete, the hardware may be reset by either the pressing of the reset button by the user or by the release and re-assertion of the management reset signal and that the hardware reset using the reset button may be used if the shutdown was caused by a fault condition such as the over temperature, over voltage or system lockup conditions (Col. 6, lines 53-65). However, shutdown of the operating system and resetting of hardware does not anticipate, in response to the driver starting a load sequence and determining that the link-shutdown timer is enabled and has not expired, determining whether the link is available, wherein the link is determined to be available when the driver is reloaded with new settings before the link-shutdown timer has expired; and continuing processing without renegotiating the link in response to the link being available.

Thus, amended claim 5 is not anticipated by the Mitchell patent.

Amended claims 14 and 23 are not anticipated by the Mitchell patent for at least the same reasons as were discussed with respect to claim 5.

Dependent claims 2-4, 6-9, 11-13, 15-18, 20-22, and 24-27 incorporate the language of one of independent claims 1, 5, 10, 14, 19, and 23 and add additional novel elements. Therefore, dependent claims 2-4, 6-9, 11-13, 15-18, 20-22, and 24-27 are not anticipated by the Mitchell patent for at least the same reasons as were discussed with respect to claims 1, 5, 10, 14, 19, and 23.

Conclusion

For all the above reasons, Applicant submits that the pending claims 1-27 are patentable. Should any additional fees be required beyond those paid, please charge Deposit Account No. 50-0585.

The attorney of record invites the Examiner to contact her at (310) 553-7973 if the Examiner believes such contact would advance the prosecution of the case.

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